

AMENDED IN SENATE MARCH 31, 2016

SENATE BILL

No. 1326

Introduced by Senators Nielsen and Nguyen

February 19, 2016

~~An act to amend Section 8585.05 of the Government Code, relating to emergency services. An act to add Chapter 6.4 (commencing with Section 30030) to Division 3 of Title 3 of the Government Code, relating to criminal justice realignment, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1326, as amended, Nielsen. ~~Office of Emergency Services. 2015 Realignment Legislation addressing justice reinvestment.~~

(1) Existing law, the 2011 Realignment Legislation addressing public safety and related statutes, requires that certain specified felonies be punished by a term of imprisonment in a county jail for 16 months, or 2 or 3 years, and provides for postrelease community supervision by county officials for persons convicted of certain specified felonies upon release from prison or county jail. As part of the realignment of public safety services to local agencies, existing law establishes the Local Revenue Fund 2011 into which specified tax revenues are deposited and are continuously appropriated for the provision of public safety services, as defined.

This bill, the 2015 Realignment Legislation addressing justice reinvestment, would establish the Realignment Reinvestment Fund in the State Treasury as a continuously appropriated fund. The bill would require the Director of Finance to annually calculate the net savings to the state for the prior fiscal year and an estimate of the net current fiscal year savings resulting from the 2011 Realignment Legislation addressing public safety, as specified. The bill would require the

Controller to transfer \$1,300,000,000 from the General Fund to the Realignment Reinvestment Fund for the 2016–17 fiscal year, thereby making an appropriation. The bill would, beginning in the 2017–18 fiscal year, and each fiscal year thereafter, require the Controller to transfer an amount equal to the estimate of net current fiscal year savings resulting from the 2011 Realignment Legislation addressing public safety, adjusted by the difference between the preceding year’s estimate and the calculated prior fiscal year net savings, thereby making an appropriation.

The bill would require the Controller to annually allocate moneys in the Realignment Reinvestment Fund, no later than September 1 of each year, to each county for deposit in the county’s Realignment Reinvestment Services Account proportionally, based on the average daily population of realigned offenders under each county’s supervision for the preceding fiscal year. The bill would require the Controller to consult with the Board of State and Community Corrections to determine the average daily population for each county.

The bill would require a Realignment Reinvestment Services Account to be established in each county treasury. The bill would require the moneys be used to implement a comprehensive, locally run, supplemental community-based corrections plan, as specified. The bill would require the supplemental community-based corrections plan to be developed by each county’s local Community Corrections Partnership and to be voted on by an executive committee of each county’s Community Corrections Partnership, as specified. The bill would deem the supplemental community-based corrections plan accepted by the county board of supervisors unless the board rejects the plan by a $\frac{4}{5}$ vote. The bill would require each county or city and county to annually report to the county board of supervisors and the Board of State and Community Corrections on the programs funded pursuant to these provisions, as specified. By imposing additional duties on local officials, this bill would impose a state-mandated local program.

The bill would require the Director of Finance, in consultation with the Legislative Analyst, to develop a yearly estimate of the cost avoidances expected to be realized by the Department of Corrections and Rehabilitation that are a result of the 2011 Realignment Legislation and would require the director to report those estimates to the Legislature, as provided.

The bill would require that moneys allocated from a Realignment Reinvestment Services Account be expended exclusively for purposes

of the bill's provisions. The bill would require that funds received pursuant to its provisions be expended or encumbered no later than June 30 the following year and would require unspent moneys to be remitted for deposit in the Realignment Reinvestment Fund.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~The California Emergency Services Act, among other things, establishes the Office of Emergency Services within the office of the Governor, under the charge of a Director of Emergency Services appointed by the Governor. The act and other existing law set forth the duties and authority of the office and the director with respect to specified emergency preparedness, mitigation, and response activities within the state.~~

~~This bill would make nonsubstantive changes to the act.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~^{yes}. Fiscal committee: ~~no~~^{yes}. State-mandated local program: ~~no~~^{yes}.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 2015 Realignment Legislation addressing justice reinvestment.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) The Legislature is committed to reducing recidivism among
- 5 criminal offenders, ensuring that local governments have adequate
- 6 funding to achieve this goal, and facilitating the responsible
- 7 implementation of the criminal justice policies contained in the
- 8 2011 Realignment Legislation addressing public safety.
- 9 (b) California must continue to reinvest its criminal justice
- 10 resources to support community-based corrections programs,
- 11 evidence-based practices, and local correctional facilities in order
- 12 to achieve improved public safety returns on this state's substantial
- 13 investment in its criminal justice system.
- 14 (c) Realigning low-level felony offenders who do not have prior
- 15 convictions for serious, violent, or sex offenses to locally run

1 community-based corrections programs, which are strengthened
2 through community-based punishment, evidence-based practices,
3 improved supervision strategies, and enhanced secured capacity,
4 has the potential to improve public safety outcomes for adult felons
5 and facilitate their reintegration back into society. However, local
6 governments have indicated that current resources provided by
7 the state to achieve these goals are inadequate. This lack of
8 resources has resulted in deficiencies in bed space, evidence-based
9 programs, and treatment options. Community-based corrections
10 programs require additional funding to meet the level of need and
11 provide an appropriate level of service for offender populations
12 shifted as a result of the 2011 Realignment Legislation addressing
13 public safety.

14 (d) By enacting the 2011 Realignment Legislation addressing
15 public safety, the Legislature affirmed its commitment to justice
16 reinvestment and stated that the purpose of justice reinvestment
17 is to manage and allocate criminal justice populations more cost
18 effectively, generating savings that can be reinvested in
19 evidence-based strategies that increase public safety while holding
20 offenders accountable.

21 (e) In order to properly implement the 2011 Realignment
22 Legislation addressing public safety, it is the intent of the
23 Legislature to fully commit to justice reinvestment by using
24 identified state savings generated by the 2011 Realignment
25 Legislation addressing public safety and any other necessary funds
26 to provide local governments with maximum flexibility and
27 adequate funding to manage these new offenders in the manner
28 that is in the best interest of public safety, most appropriate to
29 each county, and consistent with principles of justice reinvestment.

30 (f) The Department of Corrections and Rehabilitation published
31 a document in April 2012 entitled “The Future of California
32 Corrections,” sometimes referred to as the “Corrections
33 Blueprint” or the “Blueprint,” detailing the department’s plan to
34 implement the 2011 Realignment Legislation, address public safety,
35 and save billions of dollars. The Department of Finance and the
36 Department of Corrections and Rehabilitation published a report
37 in January 2016 entitled “An Update to the Future of California
38 Corrections,” which indicated that, after making certain specified
39 adjustments, the Governor’s proposed budget for the Department
40 of Corrections and Rehabilitation for the 2016–17 fiscal year is

one billion three hundred million dollars (\$1,300,000,000) less than the pre-Realignment, pre-Blueprint multiyear forecast for the Department of Corrections and Rehabilitation for the same fiscal year. Some or all of these savings, and any future savings, should be allocated to counties to mitigate the effects of the 2011 Realignment Legislation addressing public safety.

SEC. 3. Chapter 6.4 (commencing with Section 30030) is added to Division 3 of Title 3 of the Government Code, to read:

CHAPTER 6.4. REALIGNMENT REINVESTMENT FUND

30030. For purposes of this chapter, “realigned offenders” means offenders sentenced to a county jail or to mandatory supervision, or to both county jail and mandatory supervision, pursuant to subdivision (h) of Section 1170 of the Penal Code, offenders subject to postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) of Part 3 of the Penal Code, and any other offenders under county supervision whose supervision would have been the responsibility of the state if the 2011 Realignment Legislation addressing public safety had not been enacted.

30031. (a) (1) The Realignment Reinvestment Fund is hereby established in the State Treasury. Moneys in the fund are continuously appropriated and shall be used exclusively for the purposes of this chapter.

(2) (A) Beginning in 2017, on or after July 1, and no later than August 31 of each year, the Director of Finance shall calculate both of the following:

(i) The actual net savings to the state for the immediately preceding fiscal year resulting from the 2011 Realignment Legislation addressing public safety.

(ii) An estimate of the net savings to the state for the current fiscal year resulting from the 2011 Realignment Legislation addressing public safety.

(B) For the calculation pursuant to clauses (i) and (ii) of subparagraph (A), the Director of Finance shall, to the extent possible, use the same methodology used to determine that the proposed 2016–17 budget for the Department of Corrections and Rehabilitation is one billion three hundred million dollars (\$1,300,000,000) less than the adjusted multiyear forecast for

1 2016–17, as reflected on page 30 of the report published by the
2 Department of Finance and the Department of Corrections and
3 Rehabilitation in January 2016, entitled “An Update to the Future
4 of California Corrections.” The Director of Finance shall use the
5 same adjustments used in the report when making savings
6 calculations, including adjustments for employee compensation,
7 retirement contributions, Proposition 98 funding, and the activation
8 of the California Health Care facility.

9 (3) For the 2016–17 fiscal year, the Controller shall transfer
10 one billion three hundred million dollars (\$1,300,000,000) from
11 the General Fund to the Realignment Reinvestment Fund for
12 allocation pursuant to paragraph (5).

13 (4) Beginning with the 2017–18 fiscal year, and each fiscal year
14 thereafter, the Controller shall transfer an amount equal to the
15 difference between the amount identified in subparagraph (A) and
16 the amount identified in subparagraph (B) from the General Fund
17 to the Realignment Reinvestment Fund for allocation pursuant to
18 paragraph (5).

19 (A) The estimate of net savings for the current fiscal year
20 calculated pursuant to clause (ii) of subparagraph (A) of
21 paragraph (2).

22 (B) An adjustment for the immediately preceding fiscal year
23 that is the result of subtracting the amount calculated pursuant to
24 clause (i) of subparagraph (A) of paragraph (2) for that fiscal year
25 from the amount estimated pursuant to clause (ii) of subparagraph
26 (A) of paragraph (2) for that fiscal year.

27 (5) The Controller shall annually allocate moneys in the
28 Realignment Reinvestment Fund, no later than September 1 of
29 each year, to each county and city and county for deposit in the
30 county’s or city and county’s Realignment Reinvestment Services
31 Account proportionally based on the average daily population of
32 realigned offenders under each county’s supervision for the
33 immediately preceding fiscal year. The Controller shall consult
34 with the Board of State and Community Corrections to determine
35 the average daily population for each county.

36 (b) There shall be established in each county or city and county
37 treasury a Realignment Reinvestment Services Account to receive
38 all amounts allocated to a county or city and county for purposes
39 of implementing this chapter.

(c) (1) Each county local Community Corrections Partnership established pursuant to subdivision (b) of Section 1230 of the Penal Code shall recommend a comprehensive, locally run supplemental community-based corrections plan to the county board of supervisors. The purpose of the plan shall be to improve the outcomes of the 2011 Realignment Legislation addressing public safety. The plan may include, but shall not be limited to, mental health programs, substance abuse programs, transitional housing programs, job placement programs, improved supervision strategies, community-based punishment programs, increased law enforcement staffing in cities and counties, county jail construction, maintenance, and operation, assessment and criminal prosecution of realigned offenders, and supervision or aftercare for offenders sentenced pursuant to subdivision (h) of Section 1170 of the Penal Code and offenders subject to postrelease community supervision pursuant to Section 3451 of the Penal Code.

(A) The supplemental community-based corrections plan may include, but shall not be limited to, all of the following components:

(i) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol, and other services that specifically target realigned offenders and their families.

(ii) An identification and prioritization of the neighborhoods and other areas in the community that face a significant public safety risk from realigned offenders and associated crimes, including, but not limited to, gang activity, burglary, robbery, vandalism, controlled substances sales, firearm-related violence, and substance abuse.

(iii) A local action strategy that provides for a continuum of responses to crime and demonstrates a collaborative and integrated approach for implementing a system of swift, certain, and graduated responses for realigned offenders.

(iv) A schedule of programs identified in clause (iii) that are proposed to be funded pursuant to this subparagraph, including the projected amount of funding for each program.

(v) An accounting of the number of new crimes or violations committed by realigned offenders.

(vi) An evaluation of existing services and any gaps that may exist in those services.

1 (B) Programs proposed to be funded shall satisfy all of the
2 following requirements:

3 (i) Be based on evidence-based programs and approaches that
4 have been demonstrated to be effective in reducing crime or
5 programs that improve public safety through incapacitation,
6 prosecution, or treatment of realigned offenders.

7 (ii) Employ information sharing systems to ensure that county
8 and city actions are fully coordinated and designed to provide
9 data for measuring the success of programs and strategies.

10 (C) The plan shall also identify the specific objectives of the
11 programs proposed for funding and specified outcome measures
12 to determine the effectiveness of the programs and contain an
13 accounting for all program participants, including those who do
14 not complete the programs. Outcome measures of the programs
15 proposed to be funded shall include, but not be limited to, all of
16 the following when that data is available and relevant to the
17 program:

18 (i) The rate of arrests per 100,000 population.

19 (ii) The rate of successful completion of probation and
20 postrelease community supervision.

21 (iii) The rate of successful completion of restitution and
22 court-ordered community service responsibilities.

23 (iv) Arrest, incarceration, and probation violation rates of
24 realigned offenders and other program participants.

25 (v) Quantification of the annual per capita costs of the program.

26 (D) To assess the effectiveness of programs funded pursuant to
27 this paragraph using the program outcome criteria specified in
28 subparagraph (C), the following periodic reports shall be
29 submitted:

30 (i) Each county or city and county shall report, beginning
31 October 15, 2017, and annually each October 15 thereafter, to
32 the county board of supervisors and the Board of State and
33 Community Corrections, in a format specified by the board, on
34 the programs funded pursuant to this chapter and program
35 outcomes as specified in subparagraph (C).

36 (ii) The Board of State and Community Corrections shall
37 compile the local reports and, by March 15, 2018, and by March
38 15 of each year thereafter, make a report to the Governor and the
39 Legislature on program expenditures within each county and city
40 and county funded pursuant to this section and on the outcomes

1 *as specified in subparagraph (C). A report submitted pursuant to*
2 *this clause shall be submitted in compliance with Section 9795 of*
3 *the Government Code.*

4 *(2) The supplemental community-based corrections plan shall*
5 *be voted on by an executive committee of each county's Community*
6 *Corrections Partnership consisting of the chief probation officer*
7 *of the county as chair, a chief of police, the sheriff, the district*
8 *attorney, the public defender, the presiding judge of the superior*
9 *court, or his or her designee, and one department representative*
10 *listed in either subparagraph (G), (H), or (J) of paragraph (2) of*
11 *subdivision (b) of Section 1230 of the Penal Code, as designated*
12 *by the county board of supervisors for purposes related to the*
13 *development and presentation of the plan.*

14 *(3) If a supplemental community-based corrections plan has*
15 *been previously approved by a county's or city and county's local*
16 *Community Corrections Partnership, the plan shall be reviewed*
17 *annually and modified as needed.*

18 *(4) The supplemental community-based corrections plan or*
19 *modified supplemental community-based corrections plan shall*
20 *be deemed accepted by the county board of supervisors unless the*
21 *board rejects the plan by a vote of four-fifths of the board, in which*
22 *case the plan shall go back to the Community Corrections*
23 *Partnership for further consideration.*

24 *(5) The supplemental community-based corrections plan or*
25 *modified supplemental community-based corrections plan shall*
26 *be submitted to the Board of State and Community Corrections*
27 *no later than October 15 of each year.*

28 *(d) The Controller shall allocate funds to local jurisdictions for*
29 *public safety in accordance with this section as described in*
30 *subdivision (a).*

31 *(e) Funds allocated pursuant to subdivision (c) shall be*
32 *expended or encumbered in accordance with this chapter no later*
33 *than June 30 of the following fiscal year. A local agency that has*
34 *not met the requirement of this subdivision shall remit the unspent*
35 *moneys in the Realignment Reinvestment Services Account to the*
36 *Controller for deposit in the Realignment Reinvestment Fund.*

37 *(f) Beginning in 2017, and no later than May 1 of each year,*
38 *the Director of Finance shall, in consultation with the Legislative*
39 *Analyst, develop an estimate of the cost avoidances expected to*
40 *be realized by the Department of Corrections and Rehabilitation*

1 *in the current fiscal year that are a result of the 2011 Realignment*
2 *Legislation addressing public safety and report those estimates to*
3 *the chairpersons of the committees in each house of the Legislature*
4 *that consider appropriations and to the Chairperson of the Joint*
5 *Legislative Budget Committee. A report submitted pursuant to this*
6 *subdivision shall be submitted in compliance with Section 9795*
7 *of the Government Code. The Legislature may consider each year*
8 *whether to appropriate funds in augmentation of the moneys*
9 *otherwise allocated pursuant to this chapter in an amount up to*
10 *and including the amount of cost avoidances reported pursuant*
11 *to this subdivision.*

12 *30032. (a) Moneys allocated from a Realignment Reinvestment*
13 *Services Account to a recipient entity shall be expended exclusively*
14 *for services included in the county's or city and county's*
15 *supplemental community-based corrections plan. These moneys*
16 *shall supplement existing services and shall not be used to supplant*
17 *any existing funding for law enforcement services or programs or*
18 *activities included in the supplemental community-based*
19 *corrections plan provided by that entity.*

20 *(b) In no event shall any moneys allocated from the county's or*
21 *city and county's Realignment Reinvestment Services Account be*
22 *expended by a recipient entity to fund any of the following:*

23 *(1) Administrative overhead costs in excess of 1 percent of a*
24 *recipient entity's Realignment Reinvestment Services Account*
25 *allocation for that fiscal year.*

26 *(2) The costs of any capital project or construction project that*
27 *does not directly support programs or activities included in the*
28 *supplemental community-based corrections plan.*

29 *(c) For purposes of this section, both of the following shall*
30 *apply:*

31 *(1) A "recipient entity" is that entity that actually incurs the*
32 *expenditures of Realignment Reinvestment Services Account funds*
33 *allocated pursuant to subdivision (c) of Section 30301.*

34 *(2) Administrative overhead costs shall only be charged by the*
35 *recipient entity, as defined in paragraph (1), up to 1 percent of its*
36 *Realignment Reinvestment Services Account allocation.*

37 *30033. The moneys in the Realignment Reinvestment Services*
38 *Account established pursuant to subdivision (b) of Section 30031*
39 *in each county or city and county shall be expended exclusively*
40 *as required by this chapter. Moneys allocated from the account*

1 *shall not be transferred to, or commingled with, the moneys in any*
2 *other fund in the county or city and county treasury, except that*
3 *moneys may be transferred from the account to the county's or*
4 *city and county's general fund to the extent necessary to facilitate*
5 *the appropriation and expenditure of those transferred moneys in*
6 *the manner required by this chapter.*

7 *SEC. 4. If the Commission on State Mandates determines that*
8 *this act contains costs mandated by the state, reimbursement to*
9 *local agencies and school districts for those costs shall be made*
10 *pursuant to Part 7 (commencing with Section 17500) of Division*
11 *4 of Title 2 of the Government Code.*

12 ~~SECTION 1. Section 8585.05 of the Government Code is~~
13 ~~amended to read:~~

14 ~~8585.05. Unless the context otherwise requires, for the purposes~~
15 ~~of this article, the following definitions shall apply:~~

16 ~~(a) "Agency" or "office" means the Office of Emergency~~
17 ~~Services.~~

18 ~~(b) "California Emergency Management Agency" means the~~
19 ~~Office of Emergency Services.~~

20 ~~(c) "Director" or "secretary" means the Director of Emergency~~
21 ~~Services.~~